REMARKS

Claims 1-16, 18, 23, 25-27, 30, 35 and 37 have been amended. Claim 38 is new. Claims 1-38 are pending in the application.

Claim Rejections – 35 U.S.C 101

Claims 1-13 are rejected under 35 U.S.C. § 101 due to non-statutory subject matter. Applicants respectfully disagree that the claims, as submitted, are directed to non-statutory subject matter. However, in the interest of expediting prosecution, Applicants hereby submit an equivalent claim construction. Claim 1 has been amended and is now directed to an apparatus. Accordingly the rejection under 35 U.S.C. § 101 is now moot. Therefore Applicants respectfully request that the rejection of claim 1, and its dependent claims 2-13, be withdrawn.

Claim Rejections – 35 U.S.C 102

Claims 1-37 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,080,139 (***Briggs***). Applicants respectfully traverse this rejection.

For ease of discussion, claim 1 is discussed first. Claim 1, directed to an apparatus for a peer for sharing identity-based activity with at least one peer, calls for (1) a content daemon to detect and store identity-based activity and (2) an instant messaging module, communicatively coupled to the content daemon, to send an indication of identity-based activity to at least one peer, the identity-based activity related to a user logged-in to the instant messaging module.

As described in an exemplary embodiment of the instant Application, for example, by allowing users to send identity-based activity to other users using an instant messaging program, a user can share real-time content and files with other users, not just "static files" stored on the computer. *See* Application, ¶[0006] & ¶[0027]. This, for example, allows the user to share audio, video, and multimedia files they are currently listening to with other users. Additionally,

for example, users can share information about current on-line activities or other files they are currently accessing on their electronic devices. And as an example, allowing the sharing of identity-based activity with other users logged into a chat program, a user's current activities may also be tracked using an instant messaging program. Note that the description above merely relates to an exemplary embodiment of the present invention. This description is provided for illustrative purposes and for contextual support; as such, the descriptions above are not limitations of the claims.

The Examiner's rejection fails because ***Briggs*** does not teach one or more of the claimed features. For example, ***Briggs*** at least does not teach the use of an instant messaging module to send an indication of identity-based activity. In the Office Action, the Examiner argues that the claimed feature of "an instant messaging module" is taught in ***Briggs*** at col. 8, ll. 8-9. *See* Office Action, p. 3. Applicants respectfully disagree. The cited passage and relevant figures in ***Briggs*** disclose that "buddies" may be imported from instant messenger "buddy lists" and that after the names are imported they will have an extension to identify from which instant messenger list the name was imported. *Id; see also* ***Briggs***, col. 2, ll. 20-41; col. 4, ll. 32-60; col. 6, ll. 52-57.. The new "buddy list" is stored in the "fatbubble®" software, which is *not* itself an instant messaging module. In fact, ***Briggs*** disclosure for actually using an instant messaging program (*i.e.,* sending a message) is to invite a "buddy" to sign up with the sharing application (*e.g.,* "fatbubble®"). *See* ***Briggs***, col. 7, ll. 9-14. This invitation describes a text message that includes a hyperlink for the invitee to follow, *not* identity-based activity. *Id.* After the "fatbubble®" "buddy list" is set up, a user may communicate, via "fatbubble®," with other users. *See* ***Briggs***, col. 2, ll. 20-41. ***Briggs'*** sole use of an instant messaging module is to determine a "buddy list" for the "fatbubble®" program. As such, ***Briggs*** does not use an instant messaging module to send an

update of identity-based activity, rather ***Briggs*** teaches that the "fatbubble®" software sends the information to the "buddy." In contrast, claim 1 teaches using an instant messaging module to communicate an indication of identity-based activity.

Accordingly, for reasons stated above, independent claim 1 is allowable, and claims depending from claim 1 are also allowable for the same reasons. Additionally, claim 14 calls for sending an indication of identity-based activity to at least one of a/the plurality of peers, the identity-based activity related to a user logged-in to an instant messaging module, and claim 26 calls for sending an indication of identity-based activity to at least one peer, the identity-based activity related to a user logged-in to an instant messaging module. As such, claims 14 and 26, and their respective dependent claims, are also allowable for similar reasons claim 1 is allowable.

Other pending claims are allowable for additional reasons. For instance, claim 4, which depends from claim 1, teaches sharing identity-based activity comprising instances of active content by a user logged-in to the instant messaging module. Active content includes files that a user is currently accessing, such as music files the user is currently listening to, movies the user is currently watching, or the like. *See* Application, p. 2, ll. 14-16. Sharing active content allows the user to communicate current activity in real-time. The ***Briggs*** reference at least does not teach the claimed feature of sending an indication of identity-based activity, wherein identity-based activity comprises instances of active content by a user logged-in to the instant messaging module. In the Office Action, the Examiner argues that the claimed feature of "sending active content" is taught by ***Briggs*** in Col. 7, ll. 42-44. *See* Office Action, p. 4. Applicants respectfully disagree. The cited passage from ***Briggs*** describes sending previously stored information to another user. In particular, ***Briggs*** teaches sending a *stored* item, item link, or item information to a "buddy" who has enrolled to share data. *See* ***Briggs***, col. 7, ll. 42-44; col.19, ll. 5-6; col. 18,

ll. 38-57. For example, a user in ***Briggs*** may choose to send a "buddy" an item from a list of *previously visited* websites. *See* ***Briggs***, Fig. 9. As such, ***Briggs*** discloses the sharing of *past* activities and experiences with other "buddies." In contrast, Claim 4 calls for sending an indication of identity-based activity, wherein identity-based activity comprise instances of active content by a user logged-in to the instant messaging module. Accordingly, claims 5, 17-18 and 29-30 are also allowable for the same reasons claim 4 is allowable.

Claim 7 is also allowable for features recited therein. For example, claim 7, which depends from claim 1, specifies that the content daemon communicates with an activity server that hosts identity-based activity. As described in the instant Application, the content daemon obtains information about a user's online activities so the content daemon can store the unique identifier associated with the online activity. *See* Application, ¶[0020]. ***Briggs***, in contrast, discloses a flowchart that describes the capture of URL data from a user. In particular, ***Briggs*** shows the process for acquiring URL data where the process takes place completely within the *user's system*. *See* ***Briggs***, 10, ll. 60-65; col. 5, ll. 18-19. Additionally, the flowchart described in ***Briggs*** in Figs. 12-14 does not describe physical links between a content daemon and an activity server. The reference connectors **1233** and **1355** are place markers to help the guide the reader because the flowchart extends across three pages of the drawings. In contrast, claim 7 teaches that the content daemon (located within the peer (user's apparatus)) communicates with an outside server: the content daemon communicates with an activity server. For at least this reason, claim 7 is allowable. Moreover, for similar reasons, claims 19 and 31 are also allowable.

Claim 8 is also allowable for features recited therein. Claim 8, which depends from claim 1, calls for the content daemon to detect and store identity-based activity after logging-in the user to the instant messaging module, and wherein the instant messaging module sends an

update to the identity-based activity. As described in the instant Application, by using an instant messaging module for sharing, users can share real-time content and files with other users, not just "static files" stored on the computer. *See* Application, ¶[0006] & ¶[0027]. ***Briggs*** discloses a log-in screen from which a user may log-in or create a new account. Specifically, ***Briggs*** shows a log-in screen for the "fatbubble®" program, not an instant messaging module as taught in claim 8. *See* ***Briggs***, Fig. 2. In fact, ***Briggs*** teaches that the interface used to send content to "buddies" is an administrative tool used to select "buddies'" options and send files, it is not an instant messaging module used for instant messaging and sharing content post log-in. In contrast, claim 8 teaches the feature of content daemon to detect and store identity-based activity after logging-in the user to the instant messaging module, and wherein the instant messaging module sends an update to the identity-based activity. For at least this reason, claim 8 is allowable. For similar reasons, claims 9, 11, 23, 29 and 35 are also allowable.

Applicants respectfully assert that in light of the amendments and arguments provided throughout the prosecution of the present application, all claims of the present application are now allowable and, therefore, request that a Notice of Allowance be issued. Reconsideration of the present application is respectfully requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call the undersigned attorney at the Houston, Texas telephone number (713) 934-4064 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

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